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H – 1081

International Court of Justice

H1081-0002

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946

FRIDAY, 12 JULY 1946.

COMMISSIONER: Geo. R.

MR. Taylor.

THE SA

(The Commission convened at 1000 hours)

MR. TAYLOR: Will you remind the witness that he is still under oath, and proceed with your examination, Doctor.

BY DR. ASCHENAUR:

Q WAS the SA in 1933 in favor of the Church?

A The question is not quite clear but I may say this much that in 1933 wide circles of the SA wanted to show that they made an effort in the direction of the Church and wanted to show that too by actions.

Q Do you think that you can say that the large majority of the Catholic members of the SA took a position which was favorable to the Church.

A As far as the area I supervised is concerned I can answer this question with "yes."

Q Was there reason to believe in 1933 that Hitler would realize the principle which he had pointed out in

H1081 - 0003

his speech in the Reichstag on March 23, 1933, and which was as follows:

"The National Government did in both Christian religions important functions in the keeping up of our ~~xxxxxxxxxxxxx~~ peoples' character. The National Government is going to secure/~~xxxxxxxxxx~~ in schools and the educational centers with adequate influence for the Christian religion."

A It is quite obvious that in his twin position of both leader of the party and Chief of the German Government he had actually the power to realize this promise, and on the other hand it seemed impossible that any one could break a promise which had been stated so solemnly for the public ppinion of the whole world.

Q Did not the agreement reached between the Church and the party (Concordat), did not this agreement reinforce any man in his confidence when he went into the SA?

A That is quite clear and especially because by this agreement Hitler had taken up a legal obligation before the whole world.

Q Is it correct that an entire SA Stuerme Group had taken part in religious funerals and even a field service, ~~xxxx~~ and that even field services have taken place in the frame of the SA?

A Yes, that is correct. Even in a certain period the most demonstrative showed that everybody wanted absolutely to take part in those religious activities.

H1081-0004

Q Did not the SA or the cavalry SA furnish the escort for the Cardinal Galen when he traveled through his diocese as minister?

A I have not a quite clear recollection of this fact but I think it is quite possible and later on I heard of and if I remember well now it comes back to my memory that I have even seen photographs. Now my memory is not quite clear as to whether the Chiefs of these groups who is in uniform belonged to the SA or another party organization. In any case the photograph I am now referring to which I now remember was an occasion when one of the party organizations wanted to honor the Cardinal.

Q Have not the SA taken over the order of service during the procession of the Holy_____ in Muenster?

A This is a fact which is quite sure and even at this time when it took place there was a great stirring up because of the effect of this event.

Q Is it correct that in many places the SA arranged their hours in a way that they should not ~~xxxxxx~~ disturb the hours of religious services?

A I have no clear recollection as to this, but I deemed it very probable and it is quite in line with the general situation in 1933

Q Has there been an order in the SA to resign from the Church?

H1081 - 0005

A I have no recollection of this.

Q Is it not rather correct that it was forbidden to discuss church matters?

A There again I cannot make any clear statement. Anyhow, I think it is impossible that such discussions which have been allowed to take place in the Catholic area in 1933, because that would have been against all party tactics.

Q Is it correct that the SA men have been organists and wardens in the church?

A In certain cases/this has certainly been a fact. I remember that some employees of the Church have been SA members.

Q Had these men any difficulties with the SA leaders?

A I cannot recollect anything of this matter.

Q Had the overwhelming majority of the SA any activity against the Church?

A As far as the Catholic area in Western Germany is concerned, I must say "no." Of course, there were single cases.

Q Did the fight against the Church stop the greater part of the Catholic SA men from going to Church?

A Certainly not. For certain periods the action was perhaps even to the contrary. They went to Church

H1081-0006

just because of this fight against the Church.

Q What do you conclude from the changing position the SA leaders took with regard to the wearing of a uniform in Church?

A The position was changing, not with regard to the decisions of the party leaders and SA leaders but with regard to the decisions of the church leaders. Until 1933 when the Nazi party was an object of restriction and disapproval by the Church, and more for religious reasons it was forbidden for any part member to enter a Church in uniform. This decision came from the Church. After they had that for that certain period of time the SA and HJ and party always credited this right of entering the Church in uniform for reasons of propaganda. When in 1933 the big change came about, when the HJ, SA and other party organizations could possibly be seen as State Yough and as part of the State organizations, when at the same time Hitler in his capacity, both as party leader and as Chancellor of the Reich had made the statements in which he took up some obligations, when at the same time a large part of the yough more obligations had arisen to join some of these groups in order to have a safer career in the future, and when furthermore great masses of innocent Catholic Youth had joined the SA then the Church lifted

H1081-0007

the interdiction of entering the church in uniform and started to consider all of those organizations as a sort of military organization. That was the second phase in the development and then the third phase started. Then when it was seen that many a member of the party went into the Church proudly with his uniform and some of them emphasized the fact he was wearing it and when at the same time the increasing conflict between the Church and Paty became from day to day more obvious then the party forbade to enter the Church in uniform. It should not be said that so many official members of the party, which were at the same time loyal to the Church, wanted to demonstrate just their loyalty.

Q Who in the frame of the party were the main fighters against the Church?

A The question is not very easy to answer because this fight against the Church was directed from the background. Anyhow/the man who had been/recognized and even appointed by the Fuehrer as the theoretical and dogmatical fighterx against Christianity was Rosenberg with his heretics. The most fanatic enemy and the one that showed the most hatred was Goebbels.

COLONEL JONES: I wish Dr. David would keep his evidence so far as possible in the direction of the SA.

WITNESS: I shall. I have only answered the questions.

6

H1081-0008

BY DR. ASCHENAUR:

Q This question had to be asked in order to show clearly the differente between the point of view and the position taken by the SA and by the Supreme Commander of the Party like Bormann, Rosenberg, Streicher and Goebbels. I may stress the point that the Prosecution has repeatedly -

COLONEL JONES: We don't want a statement by Dr. Aschenauer. We want the witness' evidence.

MR. TAYLOR: Go ahead and complete the translation. I want to hear it.

INTERPRETER: I want to stress the point that the Prosecution has repeadedly stressed in their charges with reference to a decree by Bormann which in itself had nothing at all to do with the SA.

MR. TAYLOR: Doctor, proceed with the examination of the witness, but the Commission understands that he is a general witness of the SA as to their attitude toward the Catholic Church, and you, therefore, will confine your questions to that and the witness will confine his answers to the SA.

BY DR. ASCHENAUR:

Q May I refer to the definition I gave in the beginning and which has been handed to me by the Commission, which is a translation of the national socialism to Catholocism and the SA attitude toward the Catholic Church --

7

H1081-0009

MR. TAYLOR: Very well, the witness is entitled to answer your question so far as he himself personally knows, but I think, Doctor, we can cut this proceeding short and get everything you need by the witness not trying to testify from what he has heard or believes but what he actually knows. Let's confine our testimony to that.

DR. ASCHENAUR:

The decrees which I was questioning about are well known in all the circles of the Church. As a consequence the witness knows these things.

MR. TAYLOR: The Commission will have to differ with you, Doctor, on some part of these answers of the witness it has been from what he heard and believes and not from what he knows.

COLONEL JONES: I don't want to be misunderstood. I was not objecting to the witness but only reminding Dr. David that he should keep his answers as concise as possible.

MR. TAYLOR: Proceed, Dr. Aschenaur, with the examination.

BY DR. ASCHENAUR:

Q. Has the Supreme Command of the SA appeared in the same manner in the struggle against the Church as have Bormann, Streicher, Rosenberg and Goebbels?

H1081-0010

A As far as I can recall that was not the case.

Q Had the Supreme Command of the SA Diefied in the same way the terms "Race and Blood" as it was done in the Schwarzes Korps?

A As far as the newspapers like the Schwarzes Korps and the Stuerme are concerned, I quite recall these things because in my capacity as Vicar I had continuously to deal with them, but as to the newspaper of the SA I cannot recall any such happening.

Q Do you know that any leaders of the SA have refused hatred and inciting songs against the Church?

A With a number of the other SA leaders I knew it seems to me quite clear that he would not have tolerated such songs.

Q How do you interpret the letter of the Pope in which he writes:

"The enemies of the German States are composed by those which have arrived at influential positions of the State, coming from liberalistic, marxist and communistic idealogy with the interchange over to national socialism."

A This sentence means in the first place that the Pope underlined a principle which had been admitted by the National Socialist Government, meaning that liberalistic, Marxistic and communistic ideals are a damage to the State. The

H1081-0011

Church even at that time/was attacked and persecuted by the State and the Pope referred in this letter to a decree by the Reich President which made Communistic, liberalistic and marxistic activities punishable. In a previous note sent to the/Pope the Reich Government had obviously stated that the Catholics had communistic activities against the State. The Pope answered that the Catholics have maintained their principles, but that liberalists and marxists and communists had entered the party and state and had introduced and maintained their unmoral and crooked procedure. Therefore, it is not the Catholics which are a danger to the State, but that danger is within the party itself.

Q Did the paper "The SA Man" publish articles against the religion or articles in which the so-called political Catholicism was attacked?

A Since 1933 the SA man did not publish in any case anything like the one published in the Schwarzes Korps.

Q Can it be said that the paper, "The SA Man" corresponded to the spirit of the individual SA man?

A As far as my observactions are correct, the mass of the SA men in all/regiments belonged only generally to the SA since 1933 and were about all influenced by the party organs or such newspapers.

Com B
Take 1, page 11
Cook
1000 - 1100
12 July 1946
David

H1081-0012

Q Had such occurences with the enemy to the Church such as the ~~GermanxMovementxfor~~ German Movement for_____ ~~and~~ at Ludendorf had a great influence on the sentiments of the SA?

A I shall have to repeat which I have just stated. In my area the SA men as SA men were not easy to be influenced by any particular order.

H1081-0013

Com. B.
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Meehan
12 July
David.

Q On November 15, 1936, Bishop Guehderberger in a serman declared: "In Russia and Spain, they may lose their lives, whereas in Germany the army tries to take away from them their honor and our confidence." Was that the position taken by the overwhelming majority of the members of the SA?

A Certainly not in north-western Germany.

Q Do you have knowledge that circles of the party and SA had protested against measures against the church?

A Yes, I remember such protests even coming from persoalities who had leading positions either in the state or in the party.

Q Have you knowledge of the case of the SA Obergruppenfuehrer Schorlemmer?

A Yes, I can remember Schorlemmer very well. He died several years ago and before he came very often to see me about his worries, which arose from the fact that he was not only a member of the party, but also a member of the Reichstag. He informed me of at least one written protest and perhaps several, which he directed to the Minister Frich, who was in charge of the group which dealt especially with the proceedings of the Reichstag in regard to the Jewish question. The fact that he had a high position in the SA has never been stated to me and he never stated it to me as this fact for him was a matter of difficulty with his conscience. I therefore can prove that his position in the SA was of no importance at all to him.

Q Was there complete coordination of will for the catholics in the SA?

A No, for the Catholics that joined the SA I could not see any coordination of formation of will. On the contrary, those who entered the SA as Catholics never changed.

12

H1081-0014

Q What was the reason that there was no coordination or formation of will in the SA?

A Since 1933 most of the members of the SA did not join the SA for reasons of conviction, but only for mere formal reasons, therefore, very gradually the whole organization calmed down. I have knowledge of cases in which the members never heard anything of their organization for years. I have to correct that - they heard from the organization but did not take part in the manifestations of the organization. The leaders did not even succeed in convening a small group on the sport. A short time ago someone told me - and he is someone to be believed - he resigned from the SA by a written statement. Now it has been seen in the files in the SA that in spite of his written resignation he has even been promoted during this time in the SA from one rank to another.

Q Don't you think that the reason for that was that these people gave more importance to the fact that they were only outward members of the party?

A It is of course very difficult for the layman to distinguish what was the reason and what was the consequence. It is a fact that the SA had very little to do with the party line.

Q Were there any secret plans to be discerned with the SA man and criminal actions taken by the leaders of the SA?

A For the great majority of the SA members I deem that quite impossible. I have not seen anything of this and no one else has seen anything.

H1081-0015

Q Could you,in your capacity as general vicar, come to the conclusion from actions of the SA leaders that they too were in the hands of criminals?

A I have already repeatedly stated that from 1933 on the SA leaders have not made any special appearances in my area. In order to be complete, I may add however that I heard that somewhere in Germany some groups of SA men have been used for actions which cannot be approved of. To be even more precise, I think apart from the SA organization there were smaller groups using the name of the SA, which were in the hands of some party organizations to execute brutalities but for many years those groups have not been called SA but SS.

Q Have you any knowledge of the fact that some SA men have been forced into the SA because of laws or decrees?

A As far as I recall, the adherance to the SA was always caused by certain pressure. Of course, there was some degrees that pressure was first in the opinion of the adherent as to the work he would have if he entered the ranks and this even concerned matters that were not only taken up by the party but even by the state. The pupils of the higher classes of college, if they were not exactly heroes, could not exactly refrain from entering the ranks of the SA or HJ if they did not want to forfeit their future careers. I even recall in Cologne the best pupils of the high school were refused their certificates of maturity because they refused to enter any part of any organization. Boys left the grammer schools and wanted to make an apprenticeship but could not be accepted anywhere except at a Jewish factory. This was a pressure that was exerted on the employers and officers.

H1081-0016



Q Does not a declaration by the Pope express the thought of what is called a "Forced Voluntary Action?"

A If you mean by that a declaration of will exerted by very strong pressure, then that is correct.

Q Could one belong to the SA when one was at the same time a good Catholic?

A It is a well known fact that Catholisism and belonging to the SA has existed at the same time in the same person and even theoretically and actually it was possible since after 1933 the adherance to the SA did not mean principally an anti-religious conviction and did not include either an obligation for un-Christian actions.

Q Did the overwhelming majority of the SA men approve of the persecution of the Jews?

A The SA men which I have referred to all of the time did not approve of this persecution.

Q Could the SA men have had knowledge of the extent of the crimes, which have now become known.

A I am convinced that the masses certainly could not have had knowledge of these facts, especially because I myself, in spite of my having very good sources of information, had no knowledge of these facts. In my recollection, I can only cite the names of two concentration camps, namely Oraniensburg and Dachau. In those camps there were personal acquaintances of mine and even church men - some my subordinates.- With only one exception, none of them, in spite of their having been confidence in me, have told me anything about the facts which now are known. There was of course one exception, but the

H1081-0017

man who told me about these things was well known as a fanatic. The things he told me were incredible and full of contradictions. He talked to me so much in spite of the fact that he told me he endangered his life in telling me about it and I did not quite believe him. I know if I had no possibility of knowing about those things, in spite of all the information that I had, the great mass of men and especially yuung men, who did not have the information at their disposal, could not know about those things.

Q Why did the church not urge resignations from the SA?

A Until 1933 the church did advocate no adherance to the SA because up until 1933 the SA was considered an instrument for the execution of anti-Christian programs and secondly, because they had a revolutionary character and the church disapproves of all revolutionists. From 1933 on the SA was no longer revolutionary but it was an organization of the state. Facts have shown that it was possible to adhere to the SA without being convinced of the principles of the party, which were to be disapproved of. Furthermore the facts showed the men were not obliged to take part in any actions which were criminal, therefore, the church had no reason for intervention.

Q Have you made your statements here with the approve of His Emminence the Cardinal of Cologne?

A Of course. It is in compliance with church laws that I can only state first of all if he agrees that I state at all and the general contents of my statement here is in accordance with what he himself thinks. The principle points of what I have stated here have been covered by him in a Document which he handed to me. I will read that Document - it is two or three pages long.

COMMISSIONER TAYLOR: Let me understand what the document is. What is the purpose of introducing it here?

H1081-0018

COLONEL GRIFFITH-JONES: I object. I would like to have a consultation on this before the Document is introduced.

COMMISSIONER TAYLOR: I don't see the point of introducing the Document. It is the view of someone else and not the witness himself.

DR. ASCHENAUER: I want to recall that I had asked the witness whether he testified here with the approval of the Cardinal of Cologne. He testified that he did and I have asked the Tribunal to approve of his submitting the Document handed over by the Cardinal of Cologne.

COMMISSIONER TAYLOR: Can you tell me what is the purpose of submitting this statement?

DR. ASCHENAUER: I want to submit to this Tribunal the expert opinion of the Cardinal as a witness. I want to add that the Cardinal, Josef Frings is the president of the Bishop Conference in Fulda, therefore, the official representative of the Catholic Church.

COLONEL GRIFFITH-JONES: I object. It does not matter a bit who the Bishop is or what he is. I request that before this Document is placed before us that it be translated, which is the procedure that has been followed throughout the trial. I object to the Document being submitted until I have a translation, that is all I ask.

DR. ASCHENAUER: I have no interest at all in having this Document inserted in my Document book. I just want to have the Document, which is the official position taken by the Cardinal of Cologne, read.

COMMISSIONER TAYLOR: Objection sustained. Proceed with the examination.

DR. ASCHENAUER: I only regret the position the president has

H1081-0019

taken. I have no further questions.

COMMISSIONER TAYLOR: I can see no point in submitting the testimony of someone who is not here. If his testimony was desired, he should be present to testify.

We will recess for ten minutes.

(THE COMMISSION RECESSED AT 1140 HOURS.)

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(FOLLOWING RECESS.)

COMMISSIONER TAYLOR: We will proceed.

CROSS EXAMINATION.

BY COLONEL GRIFFITH*JONES:

Q The SA was one of the official party organizations, was it not?

A As far as I know, until the year of 1933. Until that period of time, as far as I recall, for until then one had to be first a member of the party itself in order to become a member of the SA and the SA was then the instrument of the party for even brutalities under breach of the Reich.

Q But, the SA was a party organization or a party institution right up to the end?

A The SA was in some connection with the party and subordinate to the party as there were in Germany dozens of other organizations.

Q Do you not know that the SA was an official party organization even in 1935?

A I have not entirely studied these questions, but I know very well in Germany there was no expression of public life, no organization, which did

H1081-0020

not have to have an "NS" before the other letters.

Q Do you not know that the SA was one of those organizations through which the Nazi party controlled Germany and executed its policy?

A As far as the time before 1933 is concerned, that is quite so. How that could have been possible afterwards, I cannot imagine. In my area at least the SA had practically no life and activity.

Q You know, don't you, that it was a policy of the Nazi party to surpress all church influence as much as possible?

A Yes, certainly.

Q And it was through its organizations that that policy was put into effect.

A That certainly has been done through the facilities of organizations, but as far as the SA is concerned they did not succeed.

Q The purpose of the SA was to execute the policies of the Nazi Government just the same as it was the purpose of the Gestapo, SS, or any other organization?

A It was the original purpose of the SA to execute the will of the party, but I have not been able to observe later on that the SA was able to execute the will of the Government. Later on the SA seemed to me an instrument of education of the party and Government, but an instrument which did not function.

Q I agree with you, but it was an organization for education in the way in which the Nazi Government desired people to be educated, was it not?

A Yes, that is correct as far as the minds of those people who originated it. Those people were concerned with the supreme command of the state, but those supreme commanders were unable to realize their ideas.

H1081-0021

Q I want to put one example to you to show where they apparently succeeded. Did you ever hear of an incident which occured in Freising in March of 1935?

A If you can give me some details, I might recall the incident.

Q It was an incident where the Cardinal in Freising had his services interrupted by the SA. Do you remember the incident?

A I only recall that in Bavaria, not very often, but sometimes incidents of this kind had occured, but I have already said in the direct examination that I was under the impression that apart from the basic organization of the SA there must have been smaller groups, which were instruments in the hands of those in power.

Q Of course, not every member of the SA took part in demonstrations against the church or in other illegal activities but a great many of them did.

A I cannot agree with that when you say a great many at least in regard to northwestern Germany.

Q Let us just discuss this particular incident. I have here a file which contains a letter dated March 22, 1935 from the political police of Bavaria to the Government of Upper Bavaria. It is Document 1507 PS. It is written from Munich and is a report given by the Glazier Hans Hiedl.

(Witness is handed Document 1507 PS.)

That is a report which is enclosed with the covering letter sent from the political police of Bavaria to the Government in Upper Bavaria, Ministry of the Interior. It encloses a statement as to what happened on February 18, 1935 in the Freising Church. Before we go on with the letter, I want to point out to you a statement toward the end of that letter. I quote: " On the whole it can be said that the facts about

20

H1081 - 0022



the occurences in Freising have been very much exaggerated by the Catholic clergy in order to expose the National Socialistic city counsel."

In the short paragraph preceding that he criticizes the incident as described by Hans Hiedle. Would it be right in assuming that the Catholic clergy are in fact to be more reliable than the Socialistic Council of Leisic?

A Yes, certainly.

Q And possibly a good deal more reliable than the political chief of Bavaria?

A Yes.

Q Now, we can properly see what Hans Heidle says took place. He says: "On Monday, February 18, I want to the Dom to listen to the sermon of the Cardinal. I went into the church and people were crowded closely around the altar." He goes on "... the reading of the testimony was just over when a noise coming from the church window on the epistle side of the altar of St. Mary became audible. A clergyman in a stroll, who was on duty to keep order , became aware of the noise as did many in the church. He says, "At the same time I notice a cord was pulled through the shattered church window." I skip several lines. Heidle says: "At that moment a gentleman said to me if I am not quiet immediately I will be brought to Dachau. After that I kept completely quiet. Some women also had noticed the incident and had become agitated, were threatened in the same manner. It was only then that I noticed than an official action was on its way; up to then I had only suspected some kind of

H1081-0023



disturbance caused by students on the outside.

"In the meantime the clergyman had succeeded in getting through the closely crowded people and had come over to the epistle side, but here he was immediately stopped."

I can summarize the next paragraph: During the sermon, a man asked Heidl to remain behind until after the sermon was over. Then Heidl goes on: "Ater the service three gentlemen in civilian clothes went with me to the police. They took my personal datas and then released me, I went home immediately."

Again I summarize: "At 12:30 that night the door bell rang and the three men were standing at the door. When Mr. Heidl opened it, he said: "They lifted up my hands and felt in my trousers pocket for arms." He says they took him away saantily dressed. On the way they asked him: "What did you think was the matter when the bell rang?" He answered, I quote: "I thought that it was either the fire-brigade or the police." They said, "This time you do not have to go th the police-station."

To summarize again, they took him along a field and I quote again: "The leader took a kerchief from his pocket and tied it over my mouth, he then pressed me to the ground and held me while the two others started beating me. They gave me about 15 to 20 heavy blows, from the seat down to the ankle of my left foot. The gag became loose and I screamed loudly. Then they let go of me and let me up. I was given strict instructions not to tell anybody about this incident, if I wanted to keep my business. Then they gave me a kick with his foot." After that he ran home.

22

H1081 – 0024

Com. B.
Take 2-Pg. 13.
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12 July
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There is another statement, which we need not examine in detail. It is a statement by Rupert Mattes, who states what happened outside the church and he also was arrested by some men.

Another letter in that file, dated February 22nd, is from the commander of the local Garrison. It appears that the Kreisleiderin (leader of the Nazi Women's organization) had gone around and insisted that all women members of the party or wives of members of the party should attend church services on that particular occasion. The objection of one of the women, on the basis of the fact that she was a protestant, wasrefused as unimportant, instead it was ordered that every member of the Nazi Womens Party organization had to attach hereself to a storm trooper in civilian clothes, in which way they would be considered as audience and not as sent out party members.

H1081 - 0025

Q. Now, that little incident was quite clearly organized by the Party?

A. Yes, I have no intention whatever to question the authority of these documents and the exactness of this document, nor to approve of these events, but the main question is rather whether ~~x~~ these events were typical of the actions of the SA as a whole. May I add something. I have stated in the direct examination already ~~that~~ before 1933, the groups of the SA were the instruments of brutality and realizations of the aims of the Party, and those groups, of course, have not left the Party after 1933, and have not been converted either. I have knowledge that this was not the only incident of this character - there have been others. That is why I have before stressed the point that I was of the impression that there were certain groups within Germany ~~under the~~ under the SA, but groups which were meant to have these special aims.

Q. I don't want to stop you, but we want to keep it as short as we can. These weren't people under the name of the SA - these were the SA themselves. And if the SA are not meant to act in this way, they could never have been allowed to create incidents of that kind, could they?

A. I do not feel as if I was the defense counsel of the supreme command of the SA and their aims. I have again and again stressed the point that the overwhelming majority of the members of the SA had nothing to do whatever with such events. I have noticed in one of these documents that the very well known member of the group was the leader of this act, and it was a man who supervised a camp near Freising, and that leads clearly to the difference - that was a special group of the SA.

Q. It was a special group, perhaps, but you told us yourself that was by no means the only incident, so that there must have been a number of special groups.

A. I have not said that there were many incidents with regard to the

H1081 - 0026

participation of the SA only - at least ~~exen~~ I have not meant to say so, but I have referred to the whole Party and affiliated organizations, and I have said under this viewpoint, there have been quite a number of incidents.

Q. Do you know that as late as 1943, and probably later, the Organization Book of the Party sets it out that Hoheitstrager of the Political Leaders are entitled to call on the SA for the execution of political measures?

A. I have no knowledge of this. I do not know the Organization Book of the Party, and I didn't know either the directives which have been followed, but it seems to ~~me~~ me quite possible that it was the case, yet I deem the importance was whether the overwhelming majority of the SA members were to be had for such executions.

Q. I expect you know also, do you not, that by that time the purpose of the Party was to eliminate the churches completely?

A. Yes.

Q. That would be a political mission, wouldn't it?

A. Yes, certainly.

Q. For which the Party would call out the SA for support?

A. If that was contained in the Charter, then from the legal point of view, that is right, but I'm very well aware too that in such a case the great majority of the SA would have been in the other camp. I have to add again that my area was only Northwestern Germany, and in Bavaria the situation that ruled before the taking over of the power of the Nazi Party has influenced the SA men more than in the Northwestern country.

COL. JONES: I have no further questions.

MR. TAYLOR: Any further cross examination, Col. Orlow?

COL. ORLOW: No sir.

MR. TAYLOR: Any re-direct?

DR. ASCHENAUER: I have four more questions.

H1081-0027

RE-DIRECT EXAMINATION

BY DR. ASCHANAUER:

Q. In the document submitted by the prosecution, I have found one sheet that seems to have been overlooked. May I quote from this document?

COL. JONES: May we have the date of it?

DR. ASCHENAUER: 26 April 1935.

COL. JONES: We haven't got it - perhaps you can read it out.

DR. ASCHENAUER: It concerns the events in Freising at the occasion of the presence of Cardinal Falharber on February 18, 1935. I - Preliminary Note. (Dr. Aschenauer read the article in German)

COL. JONES: Perhaps as we haven't an English translation of which Dr. Aschenauer has read. Since he has read the whole document, perhaps either he could point out to us the high points - the essential points or perhaps the interpreter can give us a summary of it.

DR. ASCHENAUER: I ask that the interpreter make a summary of Part I.

MR. TAYLOR: What is the purpose of it - is it proper re-direct?

COL. JONES: I think it must be, sir.

MR. TAYLOR: What is the document?

COL. JONES: Another document after that which I quoted. The interpreter is going to summarize it for us.

THE INTERPRETER: Most of the document concerns contradictions between the statements by the leader of the brigade #85, made on 26 March 1935, and report of the Bavarian political police of the 22 March 1935. In the beginning the note says the report of the leader of brigade #85, according to which the SA had no part whatever in this matter is in contradiction to the report of the Bavarian political police in which one can read - it is correct that the SA of Freising was summoned in the strength of about 100 men to at-

H1081 - 0028

tend, together with the NS-Fraushaft, the preaching of the Cardinal. Then again they speak about the fact that the statements that the Kreisleiter had ~~xxxxxxxx~~ asked several times for protection of the------

MR. TAYLOR: Is the prosecution satisfied with the summary he has made so far?

COL. JONES: Yes sir.

MR. TAYLOR: State in the record the number of the instrument, will you?

THE INTERPRETER: P.S. 1507 - 22, dated 26 April 1935.

DR. ASCHENAUER: Then I may state in compliance with the letter of 10 April 1935, the Amt for rights and Tribunal of the SA has submitted record on the question of Freising - the responsible person - the Reichsstallhalter Obergruppenfuhrer Ritter von Epp did not agfee with this record of the Amt. This therefore the Obergruppenfuhrer expresses his disapproval of this report of the SA in the letter of 26 April 1935.

MR. TAYLOR: I think that is sufficient, doctor. You have enough in the record and you have referred to the instrument. We don't want a speech on it - that is enough.

DR. ASCHENAUER: Just one more sentence which is the most important.

MR. TAYLOR: You are always wanting one more sentence. You have introduced it - go ahead and complete your re-direct.

DR. ASCHENAUER: If I am not granted permission to read out this sentence, then I am sorry, I have no further questions.

MR. TAYLOR: Doctor, you have received permission, the document has been introduced into the record, and it's not necessary for you to try to explain the document - it speaks for itself.

DR. ASCHENAUER: The document does not speak for itself because Part II misses and that is the most important part. It derives from Chapter

27

H1081 - 0029

II of this document that the Reichsstallhalter Obergruppenfuhrer von Epp has not accepted the report as far as punishment is concerned.

MR. TAYLOR: I don't want to hear any more on this instrument. The document has been introduced - it is part of the record and reference has been made to it by you. The Commission is not interested in hearing your ~~interpretation~~ interpretation or reading this document.

COL. JONES: With very great respect, sir, I think you are under misunderstanding. This is not the document I introduced - this is another document in the file. I think with respect that Dr. Aschenauer is entitled to refer to another document in the file which I have introduced as evidence. If that document casts doubt on any of the document which I have read, it should be entered.

MR. TAYLOR: But Col. and also the defense, you gave the document number - you stated a part of that through the interpreter in form of a summary. You have now read a considerable portion of that document, and the Commission contends it is useless for you to proceed with it, because it is in the record, and it speaks for itself. Does that explain it to you, Col. Jones?

COL. JONES: I appreciate that. On the other hand, unless itis read into the record as it is not a translated part - unless it is read into the record, it will be difficult for the Tribunal to follow.

MR. TAYLOR: Very well, go ahead and read it into the record. You just had one or two sentences, I believe you said, doctor.

Q. For one thing the letter of 10 April 1935 of the SA of the NSDAP, Amt for Tribunal and Law, with reference to the talk with the chief of staff of the supreme command of the SA Gruppenfuhrer Marxer, with reference to the events ~~(Distrubitions)~~ (Distrubitions) in the Catholic Church of Freising on the 8 of March 1935, we enclose two reports (Brigade #85 of the 26 March, and Sturmfuhrer 15 J 5 of the 25 of March 1935). In document 1507 P.S., Reichsstallhalter

H1081 - 0030

in Bavaria, the man was SA Obergruppenfuhrer Ritter von Epp - under Chapter I, the report was criticised and refused, and Chapter II, the matter was referred again to the SA Tribunal for the purpose of a punishment of the order of the events. I ask from the general view, if that doesn't make it quite clear that the supreme command of the SA was against these abuses?

A. In this particular case the supreme command have stated disapproval.

Q. Were those groups you have mentioned here - those groups which were called before ~~##~~ 1933, the so-called Stabswache (Staff Sentries)?

A. I cannot answer this question, because I'm too little familiar with the termology of the Party, but that would fit in with my impression.

Q Is it possible to state, as the prosecution has stated, that those groups represented the SA?

A. No.

Q. As a last question, the Prosecutor has referred in general terms to the question of the circular letter by Bormann, and I ask you, have the SA leaders in your area shown themselves in a special way in the fight against the church, as far as this circular letter is concerned?

A. I cannot recall anything in that line.

DR. ASCHENAUER: I have no further questions.

MR. TAYLOR: The Commission will adjourn until 10 o'clock Monday morning at which time a further witness will be heard. Notices will be sent to all interested counsel.

ADJOURNED: ~~##~~ 1241 hours.

The foregoing is a true and correct transcript of the testimony of DR. EMMERICH DAVID, taken on 12 July 1946.

Rosalie Cook
Reporter (pp. 1-11

Alice Mahan
Reporter (pp. 12-23

Bernice Winkler
Reporter (pp. 24-29

CERTIFIED TO: Geo R Taylor
Commissioner

29

H1081-0031

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

FRIDAY, 12 JUIN 1946.

COMMISSIONER :

Mr. Geo R. Taylor.

THE SA

( The Commission convened at 1000 hours)

MR. TAYLOR : Will you remind the witness that he is still under oath, and proceed with your examination, Doctor.

DR. ASCHENAUR :

Q Was the SA in 1933 in favor of the Church?

A The question is not quite clear but I may say this much that in 1933 wide circles of the SA wanted to show that they made an effort in the direction of the Church and wanted to show that too by actions.

Q Do you think that you can say that the large majority of the Catholic members of the SA took a position which was favorable to the Church.

A As far as the area I supervised is concerned I can answer this question with "yes".

Q Was there reason to believe in 1933 that Hitler would realize the principle which he had pointed out in his speech in the Reichstag on March 23, 1933, and which was as follows :

"The National Government did in both Christian religions important functions in the keeping up of our peoples'

H1081 - 0032

character. The National Government is going to secure in schools and the educational centers with adequate influence for the Christian religion."

A It is quite obvious that in his twin position of both leader of the Party and Chief of the German Government he had actually the power to realize this promise, and on the other hand it seemed impossible that any one could break a promise which had been stated so solemnly for the public opinion of the whole world.

Q Did not the agreement reached between the Church and party (Concordat), did not this agreement reinforce any man in his confidence when he went into the SA?

A That is quite clear and especially because by this agreement Hitler had taken up a legal obligation before the whole world.

Q Is it correct that an entire SA Sturmgruppe had taken part in religious funerals and even a field service, and that even field services have taken place in the frame of the SA?

Q Did not the SA or the cavalry SA furnish the escort for the Cardinal Galen when he traveled through his diocese as minister?

A I have not a quite clear recollection of this fact but I think it is quite possible and later on I heard of and if I remember well now it comes back to my memory that I have even seen photographs. Now my memory is not quite clear as to whether the Chiefs of these groups who is in uniform belonged to the SA or another party organization. In any case the photograph I am now referring to which I now remember was an occasion when one of the party organizations wanted to honor the Cardinal.

H1081-0033

Q Have not the SA taken over the order of service during the procession of the Holy _____ in Muenster?

A This is a fact which is quite sure and even at this time when it took place there was a great stirring up because of the effect of this event.

Q Is it correct that in many places the SA arranged their hours in a way that they should not disturb the hours of religious services?

A I have no clear recollection as to this, but I deemed it very probable and it is quite in line with the general situation in 1933.

Q Has there been an order in the SA to resign fro the Church?

A I have no recollection of this.

Q Is it not rather correct that it was forbidden to discuss church matters?

A There again I cannot make any clear statement. Anyhow, I think it is impossible that such discussions which have been allowed to take place in the Catholic area in 1933, because that would have been against all party tactics.

Q Is it correct that the SA men have been organists and wardens in the church?

A In certain cases this has certainly been a fact. I remember that some employees of the Church have been SA members.

Q Had these men any difficulties with the SA leaders?

A I cannot recollect anything of this matter.

Q Had the overwhelming majority of the SA any activity against the Church?

A As far as the Catholic area in Western Germany is concerned, I must say "no". Of course, there were single cases.

H1081-0034



Q Did the fight against the Church stop the greater part of the Catholic SA men from going to church?

A Certainly not. For certain periods the action was perhaps even to the contrary, they went to Church just because of this fight against the Church.

Q What to you conclude from the changing position the SA leaders took with regard to the wearing of a uniform in Church?

A The position was changing, not with regard to the decisions of the party leaders and SA leaders but with regard to the decisions of church letters. Until 1933 when the Nazi party was an object of restriction and disapproval by the Church, and more for religious reasons it was forbidden for any party member to enter a Church in uniform. This decision came from the Church. After they had that for the certain period of time the SA and HJ and party always credited this right of entering the Church in uniform for reasons of propaganda. When in 1933 the big change came about, when the HJ, SA and other party organizations could possibly be seen as State Youth and as part of the State organizations, when at the same time Hitler in his capacity, both as party leader and as Chancellor of the Reich had made the statements in which he took up some obligations, when at the same time a large part of the youth more obligations had arisen to join some of these groups in order to have a safer career in the future, and when furthermore great masses of innocent Catholic Youth had joined the SA then the Church lifted the interdiction of entering the Church in uniform and started to consider all of those organizations as a sort of military organization. That was the second phase in the development and then the third phase started. Then when it was seen that many a member of the party went into the Church proudly with his uniform and some of them emphasized the fact he was wearing it and when at the same time the increasing conflicts between the

H1081-0035

Church and Party became from day to day more obvious than the party forbade to enter the Church in uniform. It should not be said that so many official members of the party, which were at the same time loyal to the Church, wanted to demonstrate just their loyalty.

Q Who in the frame of the party were the main fighters against the Church?

A The question is not very easy to answer because this fight against the Church was directed from the background. Anyhow the man who had been recognised and even appointed by the Fuehrer as the theoretical and dogmatical fighter against Christianity was Rosenberg with his heretics. The most fanatic enemy and the one that showed the most hatred was Goebbels.

COLONEL JONES : I wish Dr. David would keep his evidence so far as possible in the direction of the S.A.

WITNESS : I shall. I have only answered the questions.

BY DR. ASCHENAUER :

Q This question had to be asked in order to show clearly the difference between the point of view and the position taken by the S.A. and by the Supreme Commander of the Party like Bormann, Rosenberg, Streicher and Goebbels. I may stress the point that the Prosecution has repeatedly -

COLONEL JONES : We don't want a statement by Dr. Aschenauer. We want the witness' evidence.

MR. TAYLOR : Go ahead and complete the translation. I want to hear it.

INTERPRETER : I want to stress the point that the Prosecution has repeatedly stressed in their charges with reference to a decree by Bormann which in itself had nothing at all to do with the S.A.

H1081-0036



MR. TAYLOR : Doctor, proceed with the examination of the witness, but the Commission understands that he is a general witness of the SA as to their attitude towards the Catholic Church, and you, therefore, will confine your questions to that and the witness will confine his answers to the SA.

BY DR. ASCHENAUR :

Q May I refer to the definition I gave in the beginning and which has been handed to me by the Commission, which is a translation of the National Socialism to Catholicism and the SA attitude toward the Catholic Church --

MR. TAYLOR : Very well, the witness is entitled to answer your question so far as he himself personally knows, but I think, Doctor, we can cut this proceeding short and get everything you need by the witness not trying to testify from what he has heard or believes but what he actually knows. Let's confine our testimony to that.

DR. ASCHENAUR : The decrees which I was questioning about are well known in all the circles of the Church. As a consequence the witness knows these things.

MR. TAYLOR : The Commission will have to differ with you, Doctor, on some part of these answers of the witness it has been from what he heard and believes and not from what he knows.

COLONEL JONES : I Don't want to be misunderstood. I was not objecting to the witnessbut only reminding Dr. David that he should keep his answers as concise as possible.

MR. TAYLOR : Proceed, Dr. Aschenaur, with the examination.

BY DR. ASCHENAUR :

Q Has the Supreme Command of the SA appeared in the same manner in the struggle against the Church as have Bormann, Streicher, Rosenberg and Goebbels?

H1081-0037

A As far as I can recall th was not the case.

Q Had the Supreme Command of the SA Diefied in the same way the terms "Race and Blood" as it was don in the Schwarzes Korps?

A As far as the newspapers like theSchwarzes Korps and the Stuerme are concerned, I quite recall these things because in my capacity as Vicar I had continuously to deal with them, but as to the newspaper of the SA I cannot recall any such happening.

Q Do you know that any leaders of the SA have refused hatred and inciting songs against the Church?

A With a number of the other SA leaders I know it seems to me quite clear that he would not have tolerated such songs.

Q How do you interpret the letter of the Pope in whichhe writes:

"The enemies of the German States are composed by those which have arrived at influential positions of he State, coming from liberalistic, marxist and communistic ideology w the interchange over to national socialism."

A This sentence means in the first place that the Pope underlined a principle which had been admitted by the National Socialist Government, meaning that liberalistic, Marxistic and communistic ideals are a damage to the State. The Church even at that time was attacked and persecuted by the State and the Pope referred in this letter to a decree by the Reich President which made Communistic, liberalistic and marxistic activities punishable. In a previous note sent to the Pope the Reich Government had obviously stated that the Catholics had communistic activities against the State. The Pope answered that the Catholics have maintained their principles, but that liberalists and marxists and communists had entered the party and state and had introduced and maintained their unmoral and crooked procedure. Therefore, it is not the Catholics which are a danger to the State, but that danger is within the party itself.

Q Did the paper "The SA Man" publish articles against the religion or articles in which the so-called political Catholicism was attacked?

A Since 1933 the SA man did not publish in any case anything like the one published in the Schwarzes Korps.

H1081-0038

Q Can it be said that the paper, "The SA Man" corresponded to the spirit of the individual SA man?

A As far as my observations are correct, themass of the SA men in all regiments belonged only generally to the SA since 1933 and were about all influenced by the party organs or such newspapers.

Q Had such occurrences with the enemy to the Church such as the German Movement for (name not supplied) at Ludendorf had a great influence on the sentiments of the SA?

A I shall have to repeat what I have just stated. In my area the SA men as SA men were not easy to be influenced by any particular order.

Q On November 15, 1936, Bishop Guehderberger in a sermon declared: "In Russia and Spain, they may lose their lives, whereas in Germany the army tries to take away from them their honor and our confidence." Was that the position taken by the overwhelming majority of the members of the SA?

A Certainly not in north-western Germany.

Q Do you have knowledge that circles of the party and SA had protested against measures against the church?

A Yes, I remember such protests even coming from personalities who had leading positions either in the state or in the party.

Q Have you knowledge of the case of the SA Obergruppenfuehrer Schorlemmer?

A Yes, I can remember Schorlemmer very well. He died several years ago and before he came very often to see me about his worries, which arose from the fact that he was not only a member of the party, but also a member of the Reichstag. He informed me of at least one written protest and perhaps several, whichhe directed to the Minister Frich, who was in charge of the group which dealt especially with the proceedings of the Reichstag in regard to the Jewish question. The fact that he had a high position in the SA has never been stated to me and he never stated it to me as this fact for him was a matter of difficulty with his conscience. I therefore can prove that his position in the SA was of no importance at all to him.

Q Was there complete coordination ofwill for the catholics in the SA?

H1081 - 0039

A No, for the Catholics that joined the SA I could not see any coordination of formation of will. On the contrary, those who entered the SA as Catholics never changed.

Q What was the reason that there was no coordination or formation of will in the SA?

A Since 1933 most of the members of the SA did not join the SA for reasons of conviction, but only for more formal reasons, therefore, very gradually the whole organization calmed down. I have knowledge of cases in which the members never heard anything of their organization for years. I have to correct that - they heard from the organization but did not take part in the manifestations of the organization. The leaders did not even succeed in convening a small group on the spot. A short time ago someone told me - and he is someone to be believed - he resigned from the SA by a written statement. Now it has been seen in the files in the SA that in spite of his written resignation he has even been promoted during this time in the SA from one rank to another.

Q Don't you think that the reason for that was that these people gave more importance to the fact that they were only outward members of the party?

A It is of course very difficult for the layman to distinguish what was the reason and what was the consequence. It is a fact that the SA had very little to do with the party line.

Q Were there any secret plans to be discerned with the SA man and criminal actions taken by the leaders of the SA?

A For the great majority of the SA members I deem that quite impossible. I have not seen anything of this and no one else has seen anything.

Q Could you, in your capacity as general vicar, come to the conclusion from actions of the SA leaders that they too were in the hands of criminals?

A I have already repeatedly stated that from 1933 on the SA leaders have not made any special appearances in my area. In order to be complete, I may add however that I heard that somewhere in Germany some groups of SA men have been used for actions which cannot be approved of. To be even

more precise, I think apart from the SA organization there were smaller groups using the name of the SA, which were in the hands of some party organizations to execute brutalities but for many years those groups have not been called SA but SS.

Q Have youany knowledge of the fact that some SA men have been forced into the SA because of laws or decrees?

A As far as I recall, the adherence to the SA was always caused by certain pressure. Of course, there was some degrees that pressure was first in the opinion of the adherent as to the work he would have if he entered the ranks and this even concerned matters that were not only taken up by the party but even by the state. The pupils of the higher classes of college, if they were not exactly heroes, could not exactly refrain from entering the ranks of the SA or HJ if they did not want to forfeit their future careers. I even recall in Cologne the best pupils of the high school were refused their certificates of maturity because they refused to enter any part of any organization. Boys left the grammar schools and wanted to make an apprenticeship but could not be accepted anywhere except at a Jewish factory. This was a pressure that was exerted on the employers and officers.



H1081 - 0040

Q. Does not a declaration by the Pope express the thought of what is cakked a "Forced Voluntary Action"?

A. I f you mean by that a declaration of will exerted by very strong pressure, then that is correct.

Q. Could one belong to the SA when one was at the same time a good Catholic ?

A. It is a well known fact that Catholicism and belonging to the SA has existed at the same time in the same person and even theoretically and actually it was possible since after 1933 the adherance to the SA did not mean principally an anti-religious conviction and did not include either an obligation for un-Christian actions.

Q. Did the overwhelming majority of the SA men approve of the persecution of the Jews ?

A. The SA men which I have referred to all of the time did not approve of this persecution.

Q. Coul the SA men have had knowledge of the extent of the crimes, which have now become known.

A. I am convinced that the masses certainly could not have had knowledge of these facts, especially because I myself, in spite of my having very good sources of information, had no knowledge of these facts. In my recollection, I can only cite the names of the two concentration camps, namely Oraniensburg and Dachau. In those camps there were personal acquaintance of mine and even church men -some my subordinates-. With only one exception none of them, in spite of their having been confidence in me, have told me anything about the facts which now are known. There was of course one exception, but the man who told me about these things was well known as a fanatic. The things he told me were incredible and full of contradictions. He talked to me so much in spite of the fact that he told me he endangered his life in telling me about it and I did not quite believe him. I know if I had no possibility of knowing about those things, in spite of all the information that I had, the great mass of men and especially yound men, who did not have the information at their disposal, could not know about the thins.



H1081-0041

H1081-0042

Q. Why did the church not urge resignations from the SA ?

A. Until 1933 the chirch did advocate no adherance to the SA because up until 1933 the SA was considered an instrument for the execution of nati-christian programs and secondly, because they had a revolutionary character and the church disapproves of all revolutionists. From 1933 on the SA was no longer revolutionary but it was an organization of the state. Facts have shown that it was possible to adhere to the SA without being convinced of the principles of the party, which were to be disapproved of. Furthermore the facts showed the men were not obliged to take part in any actions which were criminal, therefore, the church had no reason for intervention.

Q. Have you made your statements here with the approve of His Eminence the Cardinal of Cologne ?

A. Of course. It is in compliance with church laws that I can only state first of all if he agrees that I state at all and the general contents of my statement here is in accordance with what he himself thinks. The principle points of what I have stated here have been covered by him in a Document which he handed to me. I will read that Document -it is two or three pages long.

COMMISSIONER TAYLOR: Let me understand what the document is. What is the purpose of introducing it here ?

COLONEL GRIFFITH JONES: I object. I would like to have a consultation on this before the Document is introduced.

COMMISSIONER TAYLOR: I don't see the point of introducing the Document It is the view of someone else and not the witness himself.

DR. ASCHENAUER: I want to recall that I had asked the witness whether he testified here with the approval of the Cardinal of Cologne. He testified that he did and I have asked the Tribunal to approve of his submitting the Document handed over by the Cardinal of Cologne.

COMMISSIONER TAYLOR: Can you tell me what is the purpose of submitting this statement ?

DR. ASCHENAUER: I want to submit to this Tribunal the expert opinion of the Cardinal as a witness. I want to add that the Cardinal, Josef

Frings is the president of the Bishop Conference in Fulda, therefore, the official representative of the Catholic Church.

COLONEL GRIFFITH JONES: I object. It does not matter a bit who the Bishop is or what he is. I reque.. that before this Document placed therefore us that it be translated which is the procedure that has been followed throughout the trial. I object to the Document being submitted until I have a translation, that is all I ask.

DR. ASCHENAUER: I have no interest at all in having this Document inserted in my Document book. I just want to have the Document, which is the official position taken by the Cardinal of Cologne, read.

COMMISSIONER TAYLOR: Objection sustained. Proceed with the examination.

DR. ASCHENAUER: I only regret the position the president has taken I have no further questions.

COMMISSIONER TAYLOR: I can see no point in submitting the testimony of someone who is not here. If his testimony was desired, he should be present to testify.

We will recess for ten minutes.

(The Commission recessed at 1140 hours.)

COMMISSIONER TAYLOR: We will proceed.

CROSS EXAMINATION

BY COLONEL GRIFFITH JONES:

Q. The SA was one of the official party organizations, was it not ?

A. As far as I know, until the year of 1933. Until that period of time, as far as I recall, for until then one had to be first a member of the party itself in order to become a member of the SA and the SA was then the instrument of the party for even brutalities under breach of the Reich.

Q. But , the SA was a party organization or a party institution right up to the end ?

A. The SA was in some connection with the party and subordinate to the part as there were in Germany dozens of other organizations.



H1081 - 0043

Q. Do you know that the SA was an official party organization even in 1935 ?

A. I have entirely studied these questions, but I know very well in Germany there was no expression of public life, no organization, which did not have to have an "NS" before the other letters.

Q. Do you not know that the SA was one of those organizations through which the Nazi party controlled Germany and executed its policy ?

A. As far as the time before 1933 is concerned, that is quite so, How that could have been possible afterwards, I cannot imagine. In my area at least the SA had practically no life and activity/

Q. You know, don't you that it was a policy of the Nazi party to surpress all church influence as much as possible ?

A, Yes, certainly.

Q. And it was through its organizations that that policy was put into effect ?

A. That certainly has been done through the facilities of organizations, but as far as the SA is concerned they did not succeed.

Q. The purpose of the SA was to execute the policies of the Nazi Government just the same as it was the purpose of the Gestapo, SS or any other organizations ?

A. It was the original purpose of the SA to execute the will of the party, but I have not been able to observe later on that the SA was able to execute the will of the Government. Later on the SA seemed to me an instrument of education of the party and Governement, but an instrument which did not function.

Q. I agree with you, but it was an organization for education in the way, in which the Nazi Government desired people to be educated, was it not?

A. Yes, that is correct as far as the minds of those people who originated it. Those people were concerned with the supreme command of the state but those supreme commanders were unable to realize their ideas.



H1081 - 0044

H1081-0045

Q I want to put one example to you to show where they apparently succeeded. Did you ever hear of an incident which occurred in Freising in March of 1935 ?

A If you can give me some details, I might recall the incident.

Q It was an incident where the Cardinal in Freising had his services interrupted by the SA. Do you remember the incident?

A I only recall that in Bavaria, not very often, but sometimes, incidents of this kind had occurred, but I have already said in the direct examination that I was under the impression that apart from the basic organization of the SA there must have been smaller groups, which were instruments in the hands of those in power.

Q Of course, not every member of the SA took part in demonstrations against the church or in other illegal activities, but a great many of them did.

A I cannot agree with that when you say a great many, at least in regard to northwestern Germany.

Q Let us just discuss this particular incident. I have here a file which contains a letter dated March 22, 1935, from the political police of Bavaria to the Government of Upper Bavaria. It is Document 1507 PS. It is written from Munich, and is a report given by the Glazier Hans Heidl.

(Witness is handed Document 1507 PS.)

That is a report which is enclosed with the covering letter sent from the political police of Bavaria to the Government of Upper Bavaria, Ministry of the Interior. It encloses a statement as to what happened on February 18,1935 in the Freising Church. Before we go on with the letter, I want to point out to you a statement toward the end of that letter, I quote: " On the whole, it can be said that the facts about the occurrences in Freising have been very much exaggerated by the Catholic clergy in order to expose the

H1081-0046

National Socialistic city counsel. "

In the short paragraph preceding that he criticizes the incident as described by Hans Hiedls. Would it be right in assuming that the Catholic clergy are in fact to be more reliable than the Socialistic Council of Leisic ?

A Yes, certainly.

Q And possibly a good deal more reliable than the political chief of Bavaria ?

A Yes.

Q Now, we can properly see what Hans Heidle says took place. He says: " On Monday, February 18, I went to the Dom to listen to the sermon of the Cardinal. I went into the church and people were crowded closely around the altar." He goes on "....the reading of the testimony was just over when a noise coming from the church window on the epistle side of the altar of St. Mary became audible. A clergyman in a stoll, who was on duty to keep order, became aware of the noise as did many in the church. He says, "At the same time I noticed a cord was pulled through the shattered church window." I skip several lines. Heidle says, "At that moment a gentleman said to me if I am not quiet immediately, I will be brought to Dachau. After that I kept completely quiet. Some women had also noticed the incident, and had become agitated, were threatened in the same manner. It was only then that I noticed that an official action was on its way. Up to then I had only suspected some kind of disturbance caused by students on the outside.

"In the meantime the clergyman had succeeded in getting through the closely crowded people and had come over to the epistle side, but here he was immediately stopped."

I can summarize the next paragraph : During the sermon, a man asked Heidl to remain behind until after the sermon was over. Then Hoidl goes on: "After the service, three

H1081-0047

gentlemen in civilian clothes went with me to the police. They took my personal datas and then released me. I went home immediately."

Again I summarize: "At 12:30 that night the door bell rang and the three men were standing at the door. When Mr. Heidl opened it, he said: "They lifted up my hands and felt in my trousers pocket for arms." He says they took him away scantily dressed. On the way they asked him: "What did you think was the matter when the bell rang?" He answered, I quote: "I thought that it was either the fire-brigade or the police." They said, "This time you do not have to go to the police-station."

To summarize again, they took him along a field, and I quote again: "The leader took a kerchief from his pocket and tied it over my mough, he then pressed me to the ground and held me while the two others started beating me. They gave me about 15 to 20 heavy blows, from the seat down to the ankle of my left foot. The gag became loose and I screamed loudly. Then they let go of me and let me up. I was given strict instructions not to tell anybody about this incident, if I wanted to keep my business. Then they gave me a kick with their feet!" After that he ran home.

H1081-0048

Q Now, that little incident was quite clearly organized by the Party?

A Yes, I have no intention whatever to question the authority of these documents and the exactness of this document, nor to approve of these events, but the main question is rather whether these events were typical of the actions of the SA as a whole. May I add something. I have stated in the direct examination already that before 1933, the groups of the SA were the instruments of brutality and realizations of the aims of the Party, and these groups, of course, have not left the Party after 1933, and have not been converted either. I have knowledge that this was not the only incident of this character - there have been others. That is why I have before stressed the point that I was of the impression that there were certain groups within Germany under the SA, but groups which were meant to have these special aims.

Q I don't want to stop you, but we want to keep it as short as we can. These weren't people under the name of the SA- these were the SS themselves. And if the SA are not meant to act in this way, they could never have been allowed to create incidents of that kind, could they?

A I do not feel as if I was the defense counsel of the supreme command of the SA and their aims. I have again and again stressed the point that the overwhelming majority of the members of the SA had nothing to do whatever with such events. I have noticed in one of these documents that the very well known member of the group was the leader of this act, and it was a man who supervised a camp near Freising, and that leads clearly to the difference - that was a special group of the SA.

Q It was a special group, perhaps, but you told us yourself that was by no means the only incident, so that there must have been a number of special groups.

A I have not said that there were many incidents with regard to the participation of the SS only - at least I have

H1081-0049

not meant to say so, but I have referred to the whole Party and affiliated organizations, and I have said under this viewpoint, there have been quite a number of incidents.

Q Do you know that as late as 1943, and probably later, the Organization Book of the Party sets it out that Hoheitstrage of the Political Leaders are entitled to call on the SA for the execution of political measures?

A I have no knowledge of this. I do not know the Organization Book of the Party, and I didn't know either the directive which have been followed, but it seems to me quite possible that it was the case, yet I deem the importance was whether the overwhelming majority of the SA members were to be had for such executions.

Q I expect you know also, do you not, that by that time the purpose of the Party was to eliminate the churches completely

A Yes.

Q That would be a political mission, wouldn't it?

A Yes, certainly.

Q For which the Party would call out the SA for support?

A If that was contained in the Charter, then from the legal point of view, that is right, but I'm very well aware too that in such a case the great majority of the SA would have been in the other camp. I have to add again that my area was only Northwestern Germany, and in Bavaria the situation that ruled before the taking over of the power of the Nazi Party has influenced the SA men more than in the Northwestern country.

COL. JONES: I have no further questions.

MR. TAYLOR: Any further cross examination, Col. Orlov?

COLONEL ORLOV: No sir.

MR. TAYLOR: Any re-direct?

DR. ASCHENAUER: I have four more questions.

RE-DIRECT EXAMINATION

BY DR. ASCHANAUER:

Q In the document submitted by the prosecution, I have found one sheet that seems to have been overlooked. May I

H1081-0050

quote from this document:

COLONEL JONES: May we have the date of it?

DR. ASCHENAUER: 26 April 1935.

COLONEL JONES: We haven't got it - perhaps you can read it out.

DR. ASCHENAUER: It concerns the events in Freising at the occasion of the presence of Cardinal Faulhaber on February 18, 1935. I - Preliminary Note. ( Dr. Aschenauer read the article in German)

COLONEL JONES: Perhaps as we haven't an English translatio of which Dr. Aschenauer has read. Since he has read the whole document, perhaps either he could point out to us the high points - the essential points or perhaps the interpreter can give us a summary of it.

DR. ASCHENAUER: I ask that the interpreter make a summary of Part I.

MR. TAYLOR: What is the purpose of it - is it proper re-direct?

COLONEL JONES: I think it must be, sir.

MR. TAYLOR: What is the document?

COLONEL JONES: Another document after that which I quoted. The interpreter is going to summarize it for us.

THE INTERPRETER: Most of the document concerns contradictions between the statements by the leader of the brigade No. 85, made on 26 March 1935, and report of the Bavarian political police of the 22 March 1935. In the beginning the note says the report of the leader of brigade No. 85, according to which the SA had no part whatever in this matter is in contradiction to the report of the Bavarian political police in which one can read - it is correct that the SA of Freising was summoned in the strength of about 100 men to attend together with the NS-Fraushaf the preaching of the Cardinal. Then again they speak about th e fact that the statements that the Kreisleiter had asked several times for protection of the .....

H1081-0051

MR. TAYLOR: Is the prosecution satisfied with the summary he has made so far?

COLONEL JONES: Yes, sir.

MR. TAYLOR: State in the record the number of the instrument, will you?

THE INTERPRETER: P.S. 1507 - 22, dated 26 April 1935.

DR. ASCHENAUER: Then I may state in compliance with the letter of 10 April 1935, the Amt for rights and Tribunal of the SA has submitted record on the question of Freising - the responsible person - the Reichsstallhalter Obergruppenfuhrer Ritter von Epp did not agree with this record of the Amt. This therefore the Obergruppenfuhrer expresses his disapproval of this report of the SA in the letter of 26 April 1935.

MR. TAYLOR: I think that is sufficient, doctor. You have enough in the record and you have referred to the instrument. We don't want a speech on it - that is enough.

DR. ASCHENAUER: Just one more sentence which is the most important.

MR. TAYLOR: You are always wanting one more sentence. You have introduced it - go ahead and complete your re-direct.

DR. ASCHENAUER: If I am not granted permission to read out this sentence, then I am sorry, I have no further questions.

MR. TAYLOR: Doctor, you have received permission, the document has been introduced into the record, and it's not necessary for you to try to explain the document - it speaks for itself.

DR. ASCHENAUER: The document does not speak for itself because Part II misses and that is the most important part. It derives from Chapter II of this document that the Reichsstallhalter Obergruppenfuhrer von Epp had not accepted the report as far as punishment is concerned.

MR. TAYLOR: I don't want to hear any more on this instrument. The document has been introduced - it is part of the record and reference has been made to it by you. The Commission

H1081-0052

is not interested in hearing your interpretation or reading this document.

COLONEL JONES: With very great respect, sir, I think you are under misunderstanding. This is not the document I introduced - this is another document in the file. I think with respect that Dr. Aschenauer is entitled to refer to another document in the file which I have introduced as evidence. If that document casts doubt on any of the document which I have read, it should be entered.

MR. TAYLOR: But Colonel and also the defense, you gave the document number - you stated a part of that through the interpreter in form of a summary. You have now read a considerable portion of that document, and the Commission contends it is useless for you to proceed with it, because it is in the record, and it speaks for itself. Does that explain it to you, Colonel Jones?

COLONEL JONES: I appreciate that. On the other hand, unless it is read into the record as it is not a translated part - unless it is read into the record, it will be difficult for the Tribunal to follow.

MR. TAYLOR: Very well, go ahead and read it into the record. You just had one or two sentences, I believe you said, doctor.

Q For one thing the letter of 10 April 1935 of the SA of the NSDAP, Amt for Tribunal and Law, with reference to the talk with the chief of staff of the supreme command of the SA Gruppenfuhrer Marxer, with reference to the events (Distributions) in the Catholic Church of Freising on the 8 of March 1935, we enclose two reports (Brigade No. 85 of the 26 March, and Sturmfuhrer 15 J 5 of the 25 of March 1935). In document 1507 P.S. Reichsstatthalter in Bavaria, the man was SA Obergruppenfuhrer Ritter von Epp - under Chapter I, the report was criticised and refused, and Chapter II, the matter was referred again to the SA Tribunal for the purpose of a punishment of the order of the events. I ask from the general view, if that doesn't make it quite clear that the supreme command of the SA was against

those abuses?

A In this particular case the supreme command have stated disapproval.

Q Were those groups you have mentioned here - those groups which were called before 1933, the so-called Stabswache (Staff Sentries)?

A I cannot answer this question, because I'm too little familiar with the termology of the Party, but that would fit in with my impression.

Q Is it possible to state, as the prosecution has stated, that those groups represented the SA?

A No.

Q As a last question, the Prosecutor has referred in general terms to the question of the circular letter by Bormann, and I ask you, have the SA leaders in your area shown themselves in a special way in the fight against the church, as far as this circular letter is concerned?

A I cannot recall anything in that line.

DR. ASCHENAUER: I have no further questions.

MR. TAYLOR: The Commission will adjourn until 10 o'clock Monday morning at which time a further witness will be heard. Notices will be sent to all interested counsel .

Adjourned 1241 hours.

The foregoing is a true and correct transcript of the testimony of Dr. Emmerich David, taken on 12 July 1946.

Rose W. Cook
Reporter

Alice Meehan
Reporter

Bernice Winkler
Reporter

CERTIFIED TO:

Geo. R. Taylor
Commissioner